

## **RULE 8**

### **CONDUCT AND DISCIPLINE OF PERSONNEL**

#### **8.01 Rules of Conduct:**

#### **8.02 Scope:**

The rules of conduct apply to all employees under the jurisdiction of the President.

#### **8.03 Policy:**

- (a) Employee behavior contrary to the Rules of Conduct shall be subject to disciplinary action, up to and including discharge, depending on the nature of the rule infraction.
- (b) The following conduct, discussed below, when engaged in by an employee, will result in disciplinary action which may include discharge unless the employer, taking all circumstances into account deems it to be excusable:

#### **CRIMINAL OR IMPROPER CONDUCT**

- 1. Seeking to work, reporting to work or being present on County premises, in County vehicles, or engaged in County activities while under the influence of illegal drugs, alcohol or legal drugs which adversely affect safety or job performance.
- 2. The unlawful or unauthorized manufacture, distribution, dispensation, possession or use of a controlled substance, drug paraphernalia or alcohol on County premises, while on duty, in County vehicles or while engaged in County activities.
- 3. Fighting or disruptive behavior.
- 4. Intimidate or coerce another employee through physical or verbal threats.
- 5. Patient, employee or visitor abuse or harassment including, but not limited to, racial and ethnic slurs.
- 6. Unauthorized possession of weapons.
- 7. Willful destruction of Cook County property.
- 8. Failure to carry out a lawful rule, order or directive of an employee's supervisor related to the performance of the employee's duties.

9. Assaulting, threatening, intimidating or abusing a supervisor either physically or verbally.
10. Theft or unauthorized possession of patient, employee, or County property.
11. Conviction of a State Class "A" or Federal misdemeanor, felony or plea of nolo contendere, regardless of whether on duty or on the premises of any County facility.
12. Failure of an employee to immediately disclose to their department head the occurrence of an arrest of any kind, whether on duty or not.

#### JOB PERFORMANCE, TARDINESS AND ABSENTEEISM

13. Negligence in performance of duties.
14. Incompetence or inefficiency in the performance of duties of the position. This means performance of the duties of the position at a level lower than that ordinarily expected of other employees in similar positions, due to either a lack of ability, knowledge or fitness, lack of effort or motivations, carelessness or neglect.
15. Misuse of timekeeping facilities or records by:
  - a. Changing the timekeeping records of another employee by any means without proper authorization..
  - b. Altering or falsifying time sheets, timecards, or other records.
16. Absence without an approved leave. A department head or his/her designee may discipline an employee for an absence without leave of any duration, including discharge in appropriate circumstances. A department head is required to initiate discharge action against an employee who is absent without an approved leave for three consecutive work days. .
17. Be repeatedly tardy or excessively absent from work, or be absent or tardy without justification or proper notification.
18. Falsification of employment records or any other County records through misstatement or omission of pertinent facts or information.
19. Loss of professional or other license, or failing to attain the pre-requisites necessary to obtain or renew the license when such a license is required to meet the standards of the position.

## VIOLATION OF COUNTY POLICY

20. For current and probationary employees covered by the Cook County Personnel Residence Requirement Ordinance, failure to maintain a residence in Cook County.
21. Misuse confidential or proprietary information, or use confidential or proprietary information for other than a business purpose.
22. Fail to follow instructions or fail to work in accordance with County policies, procedures and/or practices.
23. Post or distribute unauthorized literature or pamphlets or remove authorized notices from bulletin boards without prior permission.
24. Engage in non-County business or sales of any kind without prior authorization.
25. Leave assigned place or area of work during working hours without permission of the supervisor.
26. Loiter or remain on County premises outside of duty hours without authorization from supervisory personnel.
27. Litter, create or contribute to unsanitary conditions.
28. Smoke in prohibited areas.
29. Engage in gambling on County premises.
30. Sleeping or inattention to duty during working hours.
31. Violate security rules and regulations of the Cook County Department of Corrections or specific rules and regulations of the Department of Corrections if pertinent and relevant to County operated activities.
32. Create an unsafe condition or fail to abide by safety and/or fire prevention regulations.
33. Use any information technology or County instrumentality, including, without limitation, e-mail, Internet services or telephone, for an unauthorized purpose. Employees are forbidden from installing or using unlicensed computer software on County-issued computers.

34. Violation of the County's Human Rights Ordinance, Ethics Order, or any other executive order issued by the President of the Board of Commissioners or Ordinances enacted by the Board.
35. Violation of the Cook County Employment Plan and/or its supplemental policies or violation of the Forest Preserve Employment Plan.
36. Violating any departmental regulations, work rules or procedures.

## **8.04 DISCIPLINARY ACTION**

### **8.041 Scope:**

Disciplinary action procedures apply to all career service employees. Non-Career Service employees are employed “at will.” They may be disciplined or discharged at any time for any reason or no reason so long as the reason is not illegal under the law. Non-Career Service employees have no expectation of continued employment. Therefore, while the conduct rules set forth in Section 8.03 may be used as guidelines by supervisors in dealing with non-Career Service employees, and will be useful to such employees in conforming their conduct to County requirements, discipline is not limited to the reasons stated therein, nor are the hearing and progressive discipline procedures applicable.

### **8.042 Policy:**

- (a) Disciplinary action is taken when an employee has committed an infraction of a County rule as specified in Rules of Conduct, or other behavior deemed unacceptable.
- (b) Progressive discipline is a systematic approach to correct unwanted behavior and deter its occurrence by administering disciplinary actions based upon various factors, including, but not limited to, the severity of the infraction, the number of times it has occurred, and the totality of the circumstances surrounding the misconduct. Cook County recommends the use of progressive and corrective discipline where appropriate. Cook County uses progressive discipline at its discretion and does not solely rely on this concept in every instance when taking disciplinary action.
- (c) All discipline shall be given only for just cause. The level of disciplinary action and/or degree shall be appropriate to the infraction including, if appropriate, a consideration of the following:
  - 1. Documentation of the employee's past conduct.
  - 2. Whether or not the employee was adequately warned and counseled of the consequences of his/her conduct.
  - 3. Length of service.
  - 4. Severity and circumstances of the particular offense.
  - 5. County practice in similar cases.
  - 6. Motives and reason for violating a rule.
  - 7. The totality of the circumstances surrounding the misconduct.

- (d) In general, discipline will include the following steps:
  - 1. 1st Offense - Oral Reprimand.
  - 2. 2nd Offense - Written Reprimand.
  - 3. 3rd Offense - Suspension.
  - 4. 4th Offense - Discharge.
- (e) Disciplinary action may begin, or advance to, any step specified above dependent upon the nature of the infraction.
- (f) Disciplinary action may only be appealed in accordance with the Grievance/Appeals Board Procedure or any applicable collective bargaining agreement.
- (g) No career service employee may be discharged, demoted or suspended for more than ten days unless the statement of charges and any supporting documentation or evidence are first reviewed by the Chief of BHR or Agency head of HR, before the employee is notified of such action.
- (h) All disciplinary action for employees must be issued in accordance with these rules, the Employment Plan and the relevant Cook County or agency policies. No decision with respect to employee discipline may be based upon any Political Reasons or Factors as defined by the Cook County Employment Plan.

#### **8.043 Procedure:**

- (a) **Predisciplinary Hearings:**
  - 1. Except for probationary, at-will employees or other employees who are senior executive service, Shakman-exempt or otherwise exempt from provisions of these Rules or career service, departments shall conduct a predisciplinary hearing for all employees for all rule violations that may lead to a suspension or discharge before imposing disciplinary actions. Predisciplinary hearings for union employees shall conform to the provisions of applicable collective bargaining agreements. Departments shall serve proper notice of the hearing upon the employee either by providing a letter to the employee or mailing the letter to the employee. The notice shall set forth the date time and place of the hearing, along with a recitation of the charges or nature of the alleged infractions, the policy or rule alleged to have been violated, and the possible disciplinary action that might be imposed should the charges be sustained.

2. The Independent Inspector General shall be notified in writing of the time and place of any predisciplinary hearing scheduled by a Department resulting from a sustained Office of the Independent Inspector General finding in order for the Independent Inspector General or his or her designee to present any testimony or evidence regarding his or her findings.
  3. Departments should convene a hearing and impose disciplinary action as soon as practicable after the alleged infraction occurred or became known to the Department. However, any challenge to the timing of the hearing will be deemed waived if the employee or the employee's representative requests a delay of the hearing or if the hearing is delayed due to the employee's unavailability or the Department's inability to effect service of the hearing notice. Should an employee fail to appear at a hearing after proper notice without a showing of good cause, that employee shall forfeit any right to appeal any disciplinary action imposed.
  4. Employees are entitled to bring a representative to the hearing. If the employee is represented by a union, that union shall have the exclusive right of representation unless the employee expresses a desire for other representation in writing. Union employees are entitled to representation by duly elected or appointed union representation, or designated union counsel, but may not insist upon representation by a specific union official or steward.
- (b) **Disciplinary Action Form**: The Disciplinary Action Form is to be completed for all steps of disciplinary action.
1. The Disciplinary Action Form is to be completed pursuant to the Employment Plan and its Supplemental Policies.
- (c) Copies of the Disciplinary Action Form are distributed as follows:
1. The employee.
  2. The department head.
  3. The collective bargaining representative or unit, if any.
  4. For office under the president, where there has been a suspension or termination a copy must be distributed to the Chief and the Cook County Compliance Officer within 5 days of issuing the discipline.

- (d) **Oral Reprimand**: An oral reprimand is given for an infraction for which there has been previous counseling, or for the first infraction of a minor nature. A Disciplinary Action Form documenting an oral reprimand may be considered in issuing subsequent discipline for a period of one (1) calendar year.
- (e) **Written Reprimand**: A written reprimand may be given when there has been previous disciplinary action, or for the first infraction of a more serious nature. . A Disciplinary Action Form documenting a written reprimand may be considered in issuing subsequent discipline for a period of one (1) calendar year.
- (f) **Suspension**: Suspension may be given where there has been previous disciplinary action or for the first infraction of a more serious nature. A Disciplinary Action Form documenting a suspension may be considered in issuing subsequent discipline for a period of four (4) calendar years.

For career service employees not covered by a collective bargaining agreement, suspensions exceeding 10 work days shall be in conformance with the procedure under the following section concerning **Discharge**, paragraph 3 (Employees not Covered by a Collective Bargaining Agreement).

(g) **Discharge**:

1. Discharge is invoked for just cause, which is defined as conduct that is so serious in nature or extent that it justifies terminating the employment relationship. Just cause includes, but is not limited to the following:
  - a. Repetition of the same or similar infractions, or a combination of infractions of the Rules of Conduct for which there has been progressive disciplinary action. An employee who has been previously suspended may be subject to discharge for the next offense.
  - b. Misconduct that after considering all the relevant factors listed in Rule 8.042(c) is so serious that discharge of the employee is necessary to maintain the efficient and effective operation of the department.
2. Employees Covered by a Collective Bargaining Agreement:
  - a. The Department Head/Designee presents a written statement of the charges and an explanation of the evidence supporting the charges to the employee and indicates a date and time for a conference.



- b. After hearing all the evidence and the employee's response, either at the end of the conference or no later than seven (7) calendar days following the conference, the Department Head/Designee makes a determination concerning one of the following:
  - i. The employee is to be discharged.
  - ii. The employee is given lesser disciplinary action than discharge, or none at all, and the employee's personnel file reflects the decision.
- c. The decision is directed to the employee in writing with copies distributed as is done with the Disciplinary Action Form.

3. Employees not Covered by a Collective Bargaining Agreement:

Discharge, demotion or suspension exceeding 10 work days for career service employees not covered by a collective bargaining agreement shall be in conformance with the following procedure:

- a. In a conference with the employee, the Department Head/Designee responsible for making the decision concerning the discipline to be issued shall provide a written statement of charges on which discipline is based, together with an explanation of the evidence supporting the charges.
- b. The employee may respond to the charges in writing within five (5) calendar days of the conference before disciplinary action is taken.
- c. The employee's response must be reviewed by the Department Head or Designee responsible for making the decision, provided that such designee may not be the person who initiated the charges against the employee.
- d. A determination of the disciplinary action to be taken, if any, will be made after review of all the evidence and the employee's response.
- e. No career service employee may be discharged, demoted or suspended for more than 10 work days unless the statement of charges and any matters in support are first reviewed by the Chief or Agency Head of HR before the employee is notified of such action.

**8.044 Emergency Suspension:** An emergency suspension may be given prior to any step of disciplinary action when the presence of the employee is dangerous or will result in the disruption of operations and time is needed to conduct an investigation. Departments must report all emergency suspensions lasting for more than five days to the Chief or Agency Head of HR. In no case shall an emergency suspension exceed 15 working days without the prior written approval of the Chief or Agency Head of HR.

**8.045 Representation:** An employee may have a representative of his choosing at any step of disciplinary action, except as follows:

1. An employee may not be represented by his Bureau Chief, Division/Department Head or Supervisor.
2. An employee may not be represented by any member of a Human Resources/Personnel Office staff.

The right to limit the number of representatives or participants at the discharge or suspension conference is reserved to the Department Head/Designee.

**8.046 Time Limits:** The time limits set forth above shall not be strictly applied when employees or their representatives delay the proceedings or are unavailable for hearings.